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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,657	03/01/2002	Bryan D. Bigsby	3191E-000028	7892

27572 7590 03/22/2004

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EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,657

Applicant(s)

BIGSBY, BRYAN D.

Examiner

Marc Jimenez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) 11-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/18/04 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-4** are rejected under 35 U.S.C. 102(b) as being anticipated by Tantlinger et al. (3,386,724).

Tantlinger et al. teach in fig. 6, inserting an axle **23** through a support aperture (the U-shaped configuration of the bracket defined by the regions **15** and **13** is considered a “support aperture”) of a mounting bracket **13,15** aligning a leaf spring **39** beneath the axle **23** and above a bottom plate **51**, inserting ends of a U-bolt **45** initially through a first set of apertures associated with the mounting bracket (see the plate **13,15**) and subsequently through second set of apertures

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of the bottom plate **51**, the U-bolt **45** encompassing the leaf spring **39** and being inserted in a downward direction (see fig. 6), and securing the leaf spring **39** between the axle **23** and the bottom plate **51** by securing the fastener **45** at the bottom plate **51**.

Regarding claim 2, note the mounting bracket **13** attached to the axle **23** which includes the first set of apertures.

Regarding claim 3, the mounting bracket **13** includes a trough within which the first set of apertures is disposed.

Regarding claims 4, the note the thirds set of apertures associated with the axle **23** and a fourth set of apertures associated with the bottom plate **51** (there are two sets apertures in the axle and the bottom plate). Note also the second U-bolt **47** which goes through the respective apertures.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over Tantlinger et al.

Regarding claim 6, Tantlinger et al. teach the invention cited with the exception of using washers. However, official notice is taken that it is well known to use washers in order to prevent damage to the plates. Applicant has essentially acquiesced the well known statement

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in the last office action by not rebutting the well known statement (see also MPEP 2144.03).

Therefore, it is taken as applicant's admitted prior art to use washers.

6. **Claims 7-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tantlinger et al. in view of Lang et al. (6,223,865).

Tantlinger et al. teach the invention cited with the exception of having a disc brake.

Lang et al. teach that it is known to use disc brakes (abstract, line 2).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Tantlinger et al. with a disc brake, in light of the teachings of Lang et al., in order to provide a brake assembly that is compact and easy to service as suggested by Lang et al. at col. 2, lines 9-30.

Regarding claim 10, Tantlinger et al./Lang et al. teach the invention cited with the exception of using washers. However, official notice is taken that it is well known to use washers in order to prevent damage to the plates. Applicant has essentially acquiesced the well known statement in the last office action by not rebutting the well known statement (see also MPEP 2144.03). Therefore, it is taken as applicant's admitted prior art to use washers.

7. **Claims 1-4 and 6-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admitted Prior Art [AAPA] (page 1, para. [0003] to page 2, para. [0004] of applicant's specification) in view of Tantlinger et al.

Regarding claims 1 and 7, [AAPA] teaches that it is known to attach an axle to a leaf

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spring by utilizing U-bolts (para. [0003], line 3). Furthermore, it is known to use disc brakes (para. [0004], line 1).

[AAPA] teach the invention cited with the exception of inserting the axle through a support aperture of a mounting bracket, aligning a leaf spring beneath the axle and above a bottom plate, inserting ends of a U-bolt initially through a first set of apertures associated with the mounting bracket and subsequently through second set of apertures of the bottom plate, the U-bolt encompassing the leaf spring and being inserted in a downward direction, and securing the leaf spring between the axle and the bottom plate by securing the fastener at the bottom plate.

Tantlinger et al. teach in fig. 6, inserting an axle **23** through a support aperture (the U-shaped configuration of the bracket defined by the regions **15** and **13** is considered a "support aperture"), aligning a leaf spring **39** beneath an axle **23** and above a bottom plate **51**, inserting ends of a U-bolt **45** initially through a first set of apertures associated with the mounting bracket (see the plate **13,15**) and subsequently through second set of apertures of the bottom plate **51**, the U-bolt **45** encompassing the leaf spring **39** and being inserted in a downward direction (see fig. 6), and securing the leaf spring **39** between the axle **23** and the bottom plate **51** by securing the fastener **45** at the bottom plate **51**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of [AAPA] with inserting the axle through a support aperture, aligning a leaf spring beneath an axle and above a bottom plate, inserting ends of a U-bolt initially through a first set of apertures associated with the mounting bracket and subsequently through second set of apertures of the bottom plate, the U-bolt encompassing the leaf spring and being inserted in a downward direction, and securing the leaf spring between the axle and the

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bottom plate by securing the fastener at the bottom plate, in light of the teachings of Tantlinger et al., in order to secure the spring and axle together without imposing detrimental forces or stresses as suggested by Tantlinger et al. at col. 2, lines 2-4.

Tantlinger et al. teach the features of claims 2-4, 8, and 9 as discussed above.

Regarding claims 6 and 10, [AAPA]/Tantlinger et al. teach the invention cited with the exception of using washers. However, official notice is taken that it is well known to use washers in order to prevent damage to the plates. Applicant has essentially acquiesced the well known statement in the last office action by not rebutting the well known statement (see also MPEP 2144.03). Therefore, it is taken as applicant's admitted prior art to use washers.

Response to Arguments

8. Applicant's arguments filed 1/29/04 have been fully considered but they are not persuasive.

9. Applicant argues that Tantlinger et al. do not teach insertion of an axle through a support aperture of a mounting bracket. However, in fig. 6, the mounting bracket **13** clearly has a "support aperture" which is defined by the U-shaped configuration of the bracket. There are two side walls **19** and a bottom wall **15** as can be seen in fig. 1, 2, 4, 5, and 6 where the axle **23** sits in. Therefore, Tantlinger et al. clearly teach a "support aperture". It is noted that the definition for "aperture" is "an opening such as a hole, gap or slit." (see dictionary definition cited in the PTO-892).

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Contact Information

10. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to CustomerService3700@uspto.gov.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is **703-306-5965**. The examiner can normally be reached on **Monday-Friday, between 5:30 am- 2:00 pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and After Final communications.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

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If the information desired is not provided above, or a number has been changed, please call the general information help line below.

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MJ

March 18, 2004